OKLAHOMA WORKFORCE DEVELOPMENT ISSUANCE #15-2017

TO: Workforce Development Board Chair
              Workforce Development Board Staff
              Workforce Development Fiscal Agents

FROM: Erin E. Risley-Baird, Executive Director

DATE: September 12, 2017

SUBJECT: The Eligible Training Provider List

PURPOSE: The Oklahoma Office of Workforce Development (OOWD), as the Governor's chosen Workforce Innovation and Opportunity Act (WIOA) administrative entity, provides this issuance as guidance to communicate Oklahoma's process and procedures regarding the Eligible Training Provider List (ETPL) and the eligibility of training providers to receive WIOA funds for the provision of training services to adults, dislocated workers, and out-of-school youth aged 16 - 24.

REFERENCES:

- The Workforce Innovation and Opportunity Act (WIOA) Sections 107, 116, 122 and 188
- 20 CFR Part 680
- 29 CFR Part 38
- TEGL 41-14 and TEGL 41-14, Change 1
- The National Apprenticeship Act, 50 Stat. 664; 29 U.S.C. 50 et seq.
- TEGL 19-16
- TEGL 13-16

BACKGROUND: Under the Workforce Innovation and Opportunity Act (WIOA), participants who need training services in order to attain their employment goal may access career training through a list of state-approved training providers and their state-approved training programs – referred to as an Eligible Training Provider List (ETPL). WIOA emphasizes informed consumer choice, job-driven training, provider performance, and continuous improvement. The quality and selection of providers and programs of training services is vital to achieving these core principles. Oklahoma's ETPL is designed to maximize customer choice and ensure all priority groups under WIOA are served. The ETPL shall be administered in a manner to ensure significant numbers of competent providers offering a wide variety of training programs and occupational choices are available to customers.

RESCISSIONS	EXPIRATION DATE
OWDI #03-2016	Continuing

MESSAGE: The OOWD has revised the policy and procedures governing the operation of the ETPL by incorporating performance criteria and information requirements which identify quality training programs and the desired outcomes for WIOA clients enrolled in these programs. These criteria will be used to implement the initial and subsequent eligibility policies required under WIOA.

Eligible Providers of Training Services

With few exceptions, only providers the State determines to be eligible, in accordance with WIOA sec. 122, may receive training funds to provide training for participants who enroll in a WIOA-funded program of training services. All eligible training providers, including providers not included on the ETPL, are subject to the equal opportunity and nondiscrimination requirements contained in Section 188 of WIOA and in the Equal Opportunity and Nondiscrimination section of this issuance.

An eligible training provider (ETP) is the only type of entity that may receive funding for training services through an individual training account (ITA). The following entities may qualify as eligible training providers:

(1) Institutions of higher education that provide a program which leads to a recognized postsecondary credential;

(2) Entities that carry out programs registered under the National Apprenticeship Act, known as registered apprenticeship (RA) programs; and

(3) Other public or private providers of training, which may include –
    (A) community-based organizations (CBOs) or private organizations of demonstrated effectiveness that provide training under contract with the Local Board,
    (B) joint labor-management organizations, and
    (C) eligible providers of adult education and literacy activities under Title II if such activities are provided in combination with occupational skills training.

Eligible Programs of Training Services

A program of training services is defined as one or more courses or classes, or a structured regimen, which lead to a recognized post-secondary credential, secondary school diploma or its equivalent, employment, or measurable skill gains toward such a credential or employment. These training services may be delivered in person, online, or in a hybrid approach.

As career pathways development is considered a function of the Local Workforce Development Board (LWDB) per WIOA sec. 107(d)(5), LWDBs are encouraged to consider quality training programs needed to advance in a career path, including single entry-level courses, as eligible programs for training services. For example, single courses such as Certified Nursing Assistant (CNA) and Certified Medication Aide (CMA) may be first steps toward a career goal of Licensed Practical Nurse (LPN) or Registered Nurse (RN).

Not all allowable types of training services are subject to the requirements of the eligible training provider provisions in WIOA title I-B. Training services exempt from the ETPL eligibility requirements include:

- Work-based training such as:
  - on-the-job training (OJT),
  - customized training,
  - incumbent worker training, and
  - transitional employment, paid or unpaid work experiences or internships; or
- When the Local Board determines that:
  - There are an insufficient number of eligible training providers, such as in a rural area, or
  - There is a program of training services with demonstrated effectiveness offered in the local area by a community-based organization or other private organization to serve individuals with barriers to employment, or
  - It would be most appropriate to award a contract to an institution of higher education or other eligible provider of training services in order to facilitate the training of multiple individuals in in-demand industry sectors or occupations, and such contract does not limit customer choice; or
- When the Local Board provides training services through a pay-for-performance contract.

Eligible Training Providers and Programs Outside the Local Area or State
An individual may choose a training provider and program located outside the local area or the State, including an online training program, in accordance with local policies and procedures, provided the training program is on Oklahoma's ETPL. The following examples are provided to show when an out-of-area or out-of-state provider and program may be appropriate:

- When there are an insufficient number of eligible providers of a program of training services to meet the local area's demand,
- When the out-of-area or out-of-state training provider is located closer than providers with similar programs within the local area (such as in rural areas), or
- When other factors are deemed appropriate by the LWDB.

Training providers outside of Oklahoma must follow the same process for inclusion on Oklahoma's ETPL as providers within the State. The local area is responsible for ensuring out-of-state providers offer quality training programs that meet local demand occupation requirements.

Process for Inclusion on the ETPL
Training providers must apply for inclusion on the statewide ETPL through Oklahoma's virtual case management system, OKJobMatch.com. By creating an account on OKJobMatch, training providers may enter and edit information about their training institution and the programs they offer. The *ProviderLink User Guide for Self-Service Training Providers* is designed to assist training organizations wishing to become ETPs with the online application process, as well as providing step-by-step instructions for entering and editing information once approved as a provider of training services. An electronic version of the *ProviderLink User Guide* is available through the following link, https://www.ajla.net/providerlink/self-service/PrintPDF.pdf, or may be obtained in the Resources section of OKJobMatch.com. Local Area ETPL Administrators are encouraged to make the *ProviderLink User Guide* available to current and prospective ETPs in their area. Training providers should be encouraged to apply at least 60 days in advance of initial program offerings to allow sufficient time for

Local and State eligibility decisions. Incomplete program or provider applications, including incomplete requests for an ETP username, may be removed from the ETPL system after 90 days.

Once a provider applies online and is approved by OOWD, the Local Area ETP Administrator reviews the program(s) entered by the provider and recommends approval for programs that meet local criteria and the requirements stipulated in this issuance. The approval page includes a comments section where the local area must enter the factors on which their recommendation is based, such as whether the program is on the local demand occupation list, whether performance has been met, and any other information that supports the recommendation for approval or the reason for local denial.

The online application is then reviewed and approved by the State ETPL Administrator, provided the criteria, information requirements, and procedures established under WIOA Section 122 for inclusion on the list of eligible providers of training services have been met. If approved by the State, each program will remain eligible and listed on the ETPL for only one (1) year.

Training providers are notified of the outcome of their request to be added to the approved provider list by an automated e-mail by the State ETPL Administrator.

Initial Eligibility Requirements
This section pertains to initial eligibility requirements for an ETP's training programs which have not previously been approved to provide training under WIOA section 122, with the exception of RA programs. All ETPs must submit specific detailed information pertaining to each program of training services to be considered for initial ETPL eligibility in accordance with the State's procedures, per 20 CFR, Part 680.450.

The criteria and information requirements established by the OOWD require an approved ETP to provide verifiable information pertaining to:

(1) A detailed description of each program of training service to be offered;
(2) Program-specific performance related to the indicators of performance, as outlined in this policy;
(3) A description of the provider's partnership with at least one business, if such a partnership exists;
(4) Other factors that indicate high-quality training services, such as accreditation, registration and/or state licensing requirements specific to the industry, and whether the training leads to a recognized postsecondary credential;
(5) Information addressing the alignment of the training services with in-demand industry sectors and occupations, to the extent practicable, as evidenced by the Occupational Information Network Standard Occupation Classification (O*NET-SOC) code(s); and
(6) Program-specific data for the All Student population, i.e., the general public who attended the training program, for the most recent performance year (July 1 –June 30), including –
    (A) The number of persons who entered the training program during the performance year (i.e., attended at least one day of training),
    (B) The number of persons who completed the training program during the performance year,

(C) The number who obtained training-related employment upon the completion of the training program during the performance year, and

(D) The average hourly wage at employment placement.

Training programs that have been previously offered by the provider but have never been approved for ETPL eligibility must supply the information and criteria in (1) - (6) of the above list.

Only information and criteria described in (1) and (3) - (5) must be entered for training programs offered by an ETP that is unable to produce program-specific performance data as an initial eligibility requirement because they are:

- New training programs that have <u>never</u> been offered by the ETP,
- Training programs that started within the last 24 months and cover a training period of more than one semester, or
- Training programs that have not been offered by the ETP to the general public for a period of two or more years such as, programs that were cancelled due to low enrollment or programs that have recently regained accreditation.

Programs that have never been offered by an ETP will have no student-level data to report. Similarly, programs that have not been offered in three or more years will have no current performance data to report. Thus, in these cases, no program data is expected.

The availability of program-specific data for training programs that started within the previous 24 months depends upon the length of the program. Short term programs that started within the previous 24 months can reasonably be expected to collect a minimum of 12 months of performance within a 24-month period. However, long term training programs that cover a period of more than one semester and started within the same time frame may not have performance data pertaining to employment outcomes. Therefore, initial eligibility criteria related to performance is not mandated for training programs which cover a period longer than one semester if the program was first made available within the previous 24-month period.

Please note that the change of a training program's name or the name of the training provider does not constitute a "new" program or exempt the provider from providing the program-specific data in bullets (2) and (6), above.

Oklahoma's current benchmarks for program-specific data for the All Student population, are the same for initial and subsequent eligibility determinations. The following minimum standards, with the exceptions for initial eligibility described in this issuance, must be met:

- Program Completion Rate: 20% of the All Student population entering a program must complete the program.
- Entered Employment Rate: 20% of total participants completing a program must become employed.
- Wages at Placement (Hourly): Participants must earn an hourly wage of $7.25 in their program-related field of employment.

An exception to the minimum standards above may be made for <u>initial eligibility determinations only</u> if the local area determines an established ETP's program focuses on community talent growth and aligning the workforce with targeted in-demand industry clusters. In-demand refers to occupations, industry sectors or clusters, or career pathways that have been identified as emerging, growing, a priority for local workforce partners, or otherwise having the best job prospects due to the workforce needs or hiring demands of employers. The local area is responsible for entering information that supports the request for the exception into the comments section of the ETPL approval page. Supporting information must include whether the program is on the local demand occupation list, whether the program meets workforce needs or the hiring demands of specific employers in the community, area, or region, and any other information that supports the Local Board's recommendation for approval.

After one year of initial eligibility, these programs are required to meet specific performance data, as required of all training programs to remain on the ETPL.

The LWDB staff or the WIOA Service Provider must assist individuals in the selection of training programs that are directly linked to employment opportunities in their local area. Each LWDB must establish, maintain, review and update annually a list of existing or emerging occupations that are determined to:

- be part of the sector of the economy that has a high potential for sustained demand or growth in the local area;
- target industry clusters within the local area;
- support economic growth priorities; and
- address industry-specific shortages.

Subsequent Eligibility Requirements
After the first year, if the program meets subsequent approval requirements, continued eligibility will be reviewed every two years. Program-specific performance (number participated, number completed, and number employed after leaving the program) pertaining to the All Student population must, at a minimum, be entered biennially by the ETP for each training program. LWDBs may require ETPs to update program-specific data for the All Student population more frequently, but not more than once per year. The contact person listed on the ETP Training Provider Details page will automatically receive an eligibility expiration notification by e-mail when a program(s) is within 45 days of the renewal date. The ETP must update the contact name and information in the Provider Menu of OKJobMatch as changes occur, for timely receipt of eligibility expiration notices.

Local ETPL Administrators will find a list of programs that have received Eligibility Expiration Notifications and a list of Pending Subsequent Programs on the OKJobMatch.com ETP Local Area Approval Menu. These lists should be used for outreach to training providers in the local area to update All Student data in a timely manner.

For subsequent approval, WIOA performance data must be entered by the LWDB, no later than October 31st, for a minimum period of one year, based on the most recent July 1st - June 30th program year. For

example, WIOA performance must be entered no later than October 31, 2017 for the for July 1, 2016 - June 30, 2017.

The following factors must be considered by LWDBs, and addressed in the comments section as appropriate, when electronically recommending subsequent eligibility approval to OOWD:

- The specific economic, geographic, and demographic factors in the workforce areas in which providers seeking eligibility are located;
- The characteristics of the population served by providers seeking eligibility, including the demonstrated difficulties in serving such populations, where applicable;
- The degree to which training programs relate to in-demand industry sectors and occupations within the state;
- The performance of a provider of program(s) of training services as outlined in this issuance;
- The program cost of training services;
- The involvement of employers in the establishment of skills requirements for the training program; and
- The impact provider performance will have on State-negotiated WIOA Performance Measures for all program participants.

WIOA Performance Requirements for Eligible Training Providers
Eligible Training Providers, with the exception of registered apprenticeships, are required to submit annual performance reports. The results must be student-level data segregated by training program and will apply to both WIOA and All Student populations.

Additional reporting clarification and reporting templates are still needed from the United States Department of Labor - Employment and Training Administration (USDOL-ETA, or DOLETA) before required performance levels will be set. The following WIOA performance indicators for ETPL continued eligibility remain in effect until guidance is received from the USDOL:

- Employment Rate: The percentage of program participants who are in unsubsidized employment in the second quarter after exit from the program;
- Employment Rate: The percentage of program participants who are in unsubsidized employment in the fourth quarter after exit;
- Median Earnings: The median earnings of program participants who are in unsubsidized employment during the second quarter after exit; and
- Credential or diploma attainment: The percentage of program participants who during a program year, are in an education or training program that leads to a recognized postsecondary credential or employment, and who are achieving measurable skills gains toward such a credential or employment.

Registered Apprenticeships
Registered Apprenticeship (RA) is a proven approach for employers to build a pipeline of highly-skilled workers, promoting employee retention and increasing productivity. RA programs are exempt from initial eligibility procedures and shall be included, maintained, and considered in-demand on the EPTL for so long as the corresponding program of the provider remains open and registered with the USDOL Office of Apprenticeship (OA) or until the program asks to be removed from the list. RA programs are

placed on the ETPL through a minimally burdensome process that includes information provided by the State Director of the USDOL/OA.

RA programs are exempt from performance and reporting-related requirements, including the requirements for annual ETP reporting, enabling these evidence-based programs to be placed on the statewide ETPL with minimal burden. These programs have already gone through a detailed application and vetting procedure by DOLETA/OA to become RA program sponsors, and are monitored on a regular basis by the OA. Inclusion of RA programs in the statewide ETPL enhances participants' awareness of the programs and provides a more direct connection to the Oklahoma Works (One-Stop) Centers. All RA openings listed on the ETPL will automatically be considered demand occupations for as long as the opening(s) remain unfilled, allowing the use of ITAs for RA participants.

All RA programs are required to provide the following information for the State:

- Occupations included within the RA program;
- The name and address of the RA program sponsor;
- The name and address of the Related Technical Instruction (RTI) provider, and the location of instruction if different from the program sponsor's address;
- The method and length of instruction; and
- The number of active apprentices.

RA program sponsors that do not provide the RTI portion of the apprenticeship program are required to provide additional information about their education provider, including the cost of the instruction. Additionally, the State Employer Identification Number (SEIN) is required when the cost of training is borne by WIOA title I-B funds.

Local Boards and/or one-stop operators may not impose additional requirements on RA program sponsors, nor may they ask RA sponsors to submit their Certificate of Registration to prove their RA status. The Certificate of Registration is issued by the OA upon completion of the RA program, and is verified by OOWD prior to inclusion on the ETPL. Additionally, it is not necessary for local areas to determine if an RA program is on their local demand occupation list. Any RA program that is taking applications is considered an in-demand occupation and will be included on the ETPL, at the request of the RA sponsor. Any questions or concerns about the status of the RA sponsor should be addressed with the OOWD.

Adding RA programs to the State list of Eligible Training Providers
Although RA programs are automatically eligible for inclusion on the ETPL, RA program sponsors must indicate their interest in being an ETP. The OOWD works with the OA State Director to contact all RA programs within the State in order to allow them to indicate interest. Once the OA State Director has notified OOWD that a new RA program has been added to the federal RA database, and the minimal information necessary has been provided (i.e., occupations included, name and address of the RA sponsor, RTI provider, length of instruction, and the number of active apprentices), the State ETPL Administrator will add the new RA program to the ETPL.

Roles and Responsibilities in Developing the Eligible Training Provider List

The Oklahoma Office of Workforce Development is responsible for:

- The development, maintenance and dissemination of the State list of providers and programs;
- Ensuring programs meet the eligibility criteria and performance levels established by the State;
- Verifying the accuracy of submitted information;
- Removing programs that do not meet established program criteria or performance levels;
- Ensuring performance and cost information relating to each provider is available to the public;
- Finalizing approval for providers and programs recommended by the LWDBs;
- Ensuring RA program sponsors are contacted to voice their willingness to be part of the ETPL (with assistance from DOLETA/OA);
- Verifying the registration status of RA programs on at least a biennial basis;
- Ensuring new RA programs are placed on the ETPL in a timely manner; and
- Removing RA programs that are either voluntarily or involuntarily deregistered, as notified by DOLETA/OA.

The LWDB is responsible for carrying out the following procedures assigned by the State:

- Identification of in-demand sectors or occupations for the local area using relevant labor market information;
- Reviewing new and subsequent training providers and programs of training services to ensure accurate eligibility criteria and performance information has been provided prior to submission to the OOWD for final approval;
- Recommending the termination of providers due to the provider's submission of inaccurate eligibility and/or performance information;
- Working with the State to ensure that sufficient numbers of providers of training services have the expertise in assisting individuals with disabilities and training providers are available to assist adults in need of adult education and literacy activities; and
- Making recommendations to the OOWD for approval or denial of providers and/or programs based the local area's demand occupation information and the program's performance.

With the exception of RAs, LWDBs may require additional information and/or set higher levels of performance for providers to become or remain eligible to provide services in their particular area. If a Local Board establishes minimum standards in local policy, the Local Board may direct the removal of a provider's program from the eligible programs in their local area for failure to meet the established local criteria. The appeal process outlined in this policy must be followed for rejected training providers or those providers removed for cause.

Conditions for Removal from the ETPL

The State may remove a program from the list for failing to meet the established criteria or for not providing all the required performance information for subsequent eligibility. Removal is also appropriate if the program has failed to attain or has lost the accreditation required for professional licensure. A training provider that is removed from the list for reasons stated above may reapply for continued eligibility when they can demonstrate that they meet all requirements. Any providers that willfully supply false performance information, misrepresent costs or services, or substantially violate requirements of WIOA law will be removed from the ETPL by the State for a period of not less than two years. Providers are liable to repay all adult, dislocated worker, and youth funds received during the

period of non-compliance. No training provider debarred by the Federal Government may be permitted to be placed or remain on the ETPL. In the case of a training provider or a program of training services that is removed from the list while WIOA participants are enrolled, the participants may complete the program unless the provider or program has lost state licensing, certification, or authorization to operate by the appropriate state oversight agency.

This section does not apply to RA programs, whose registration status is required to be assessed by the OOWD on a biennial basis at a minimum. An RA program is removed from the ETPL only when the OA State Director has notified the OOWD that the program has been deregistered.

Appeal Process

Training providers are notified of the outcome of their request to be added to the ETPL, when programs are approved or denied, and when either the program or the provider is removed from the ETPL, by way of automated e-mails from the State ETPL Administrator.

When training providers have received a notification of denial and/or removal from the State ETPL, they have to right to appeal the rejection of their program, or its subsequent termination of eligibility. Reasons for Initial Denial or Removal of programs or providers may include:

- The application from a provider is incomplete or not submitted within required timelines;
- The applicant fails to meet the minimum criteria for initial listing as specified in this Issuance;
- The applicant supplied inaccurate information; or
- The provider has substantially violated any WIOA requirement(s).

The appeal must be submitted in writing via email to sandy.elledge@okstate.edu within 14 calendar days after notification of the decision, and must include the following:

- A statement of the desire to appeal;
- Specification of the program in question;
- The reason(s) or grounds for the appeal;
- Documentation supporting the grounds for the appeal; and
- The signature of the appropriate provider official.

Justification for the appeal must be provided in the appeal request. Justification must include the reason(s) the training provider believes they were improperly denied or removed from the ETPL, which may include circumstances beyond the provider's control, such as natural disasters, unexpected personnel transitions, and unexpected technology-related issues.

OOWD will make an initial determination as to the appeal within 14 calendar days from the receipt of the appeal, and will notify the training provider in writing of their right to a hearing if the appeal decision is unfavorable.

As with appeals, hearings must be requested in writing via e-mail to sandy.elledge@okstate.edu. If a hearing is requested, a convening will be scheduled consisting of OOWD leadership, the OOWD ETPL Administrator, and the LWDB Director. A hearing decision will be made within 60 days of the appeal, on

the merits provided in the written request. This will be a final decision and if an appeal for the removal of a program is upheld, the program will be prohibited from reapplying for one year from the date of the final decision or for a minimum of two years if the removal was for submittal of false information or for any substantial violation of title I of WIOA, the WIOA regulations, or 29 CFR part 38.

A decision reached under the State appeal process may not be appealed to the Oklahoma Secretary of Education and Workforce Development.

Equal Opportunity and Nondiscrimination
All training providers, including providers not included on the ETPL, are subject to the Equal Opportunity and Nondiscrimination requirements found in Section 188 of WIOA and Title 29 CFR Part 38. All LWDBs must ensure that a training provider is in compliance prior to approving the provider for inclusion on the ETPL.

All providers must comply with WIOA's Equal Opportunity and Nondiscrimination provisions which prohibit discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, political affiliation or belief, or, for beneficiaries, applicants, and participants only, on the basis of citizenship status or participation in a WIOA Title-I financially assisted program or activity.

Equal employment opportunity and nondiscrimination procedures must be posted at all Oklahoma Works (One-Stop) Centers and at each ETP site, and must be provided to each customer upon enrollment. Training providers who fail to comply with this section, will be removed from the ETPL.

ACTION REQUIRED: This Oklahoma Workforce Development Issuance (OWDI) is to become a part of your permanent records and made available to appropriate staff and sub-recipients.

INQUIRIES: If you have any questions about this issuance, please contact Policy and Program Staff in the Oklahoma Office of Workforce Development. Contact information can be found at http://www.oklahomaworks.gov/about/.